

FILED

MAR 16 2020

Clerk, U S District Court
District Of Montana
Billings

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

CAPITOL SPECIALTY INSURANCE
CORPORATION,

Plaintiff,

vs.

BIG SKY DIAGNOSTIC IMAGING,
INC.,

Defendant.

Cause No.: CV 17-54-SPW-TJC

ORDER

Before the Court are United States Magistrate Judge Timothy Cavan's findings and recommendation filed on February 3, 2020. (Doc. 75). Judge Cavan recommends this Court grant Plaintiff Capitol Specialty Insurance's motion for attorney fees (Doc. 52) and award Capitol Specialty Insurance Corporation \$357,387.43 in fees and costs. (Doc. 75 at 19).

I. Standard of review

Big Sky filed timely objections to the findings and recommendation. (Doc. 76). Big Sky is entitled to de novo review of those portions of Judge Cavan's findings and recommendations to which it properly objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

II. Discussion

Big Sky objects to Judge Cavan's recommendation as an unreasonable determination of attorney fees. Big Sky argues that in the underlying lawsuit, the attorneys for Dr. Cole billed half what the attorneys for Big Sky billed. The Court has reviewed the submissions, the briefs, and Judge Cavan's findings and recommendation on the motion for attorney fees, and agrees with Judge Cavan in full. Judge Cavan's recommendation squarely addressed Big Sky's objection: "[T]he Court does not agree with Big Sky that the fees incurred by Dr. Cole in his defense should serve as a measure of what was reasonable and necessary to defend Big Sky. As Mr. Stacey pointed out in his testimony, the claims against Big Sky were much broader than the claim against Dr. Cole" (Doc. 75 at 17).

III. Conclusion and Order

It is hereby ordered:

1. Judge Cavan's findings and recommendation are adopted in full;
2. Big Sky's objections are overruled;
3. Capitol Specialty's motion for attorney fees (Doc. 52, 61) is granted;
4. Capitol is awarded \$357,387.43 in fees and costs.

DATED this 16th day of March, 2020.

A handwritten signature in blue ink, reading "Susan P. Watters", is written over a horizontal line.

SUSAN P. WATTERS
U.S. District Court Judge